THE HON'BLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 2098 of 2006

Date: 22.11.2006

Between:

S. Ramachandra Rao.

…..PETITIONER

AND

The Deputy Managing Director & Corporate Development Officer, State Bank of India, Bank Street, Hyderabad.

….RESPONDENT

THE HON'BLE SRI JUSTICE N.V.RAMANA

Writ Petition No. 2098 of 2006

Order:

Questioning the action of the respondent Bank in rejecting the claim of the petitioner for grant of pension, vide proceedings dated 26.12.2005, the present writ petition is filed.

2. The petitioner took voluntary retirement, and retired from service on 31.03.2001 as Assistant Cashier. It is the case of the petitioner that upon his retirement, the respondent paid a sum of Rs.1,01,678/- towards gratuity, but did not fix his pension. So, he made representations dated 24.04.2002 and 23.09.2003 to the respondent Bank for sanction of pension. However, the respondent vide proceedings dated 20.10.2003, rejected the claim of the petitioner for pension stating that he is not eligible for pension as he had put in only 16 years of service. The petitioner states that as per Clause 3 of the S.B.I. Voluntary Retirement Scheme, only those who have put in 15 years of service or completed 40 years of age as on 31.12.2000, are entitled to take retirement, and since he has put in more than 15 years of service, he is entitled to pension. He further states that on his repeated representations, the respondent again passed the impugned order dated 26.12.2005, rejecting his claim for sanction of pension. Hence, he filed the present writ petition.

3. The contention of the learned counsel for the petitioner is that the pension is a fundamental right traceable to Article 21 of the Constitution of India and is a necessary service condition implied under Article 16 of the Constitution of India, and since the petitioner has put in more than 15 years of service, as required under Clause 3 of the Voluntary Retirement Scheme, for being eligible for taking voluntary retirement, he is entitled to claim pension, and the action of the respondent in rejecting the request of the petitioner for pension, is not only violative of the Voluntary Retirement Scheme sponsored by the State Bank of India, but is also violative of the provisions of the Constitution. He thus, prayed for directions to the respondent to sanction pension to the petitioner.

4. On the other hand, the learned Standing Counsel for the respondent-Bank vehemently opposed the said contention and submitted that pension cannot be claimed as a matter of right, and as per the SBI Employees Pension Fund Rules, an employee, who have completed minimum qualifying service of 20 years, is eligible for pension. He further submits that since the petitioner did not complete the said qualifying service period, he is not entitled for claiming pension. In support of his contention, he relied on a decision of this Court in ***K. CHALAPTHI RAO v. STATE BANK OF INDIA***[1].

5. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Bank.

6. The Voluntary Retirement Scheme, merely prescribes the eligibility. It states that employees, who have put in 15 years of service or completed 40 years of age as on 31.12.2000, are

eligible to apply for voluntary retirement. It does not speak of grant of pension to those who completed 15 years of service. According to the respondent, as per the SBI Employees Pension Fund Rules, an employee, who has completed minimum qualifying service of 20 years, is eligible for pension. Inasmuch as the petitioner, which is evident from his own affidavit, has completed only 16 years 7 months and 29 days, he is not eligible for pension, and no exception can be taken to the action of the respondent in rejecting the representations of the petitioner for grant of pension. This apart, the petitioner cannot claim pension as of neither right nor it is a necessary condition attached to any service. In ***K. CHALAPTHI RAO v. STATE BANK OF INDIA***, the fixation of 20 years of qualifying service for the purpose claiming pension, was questioned. Upholding the said fixation, this court held:

> Pension cannot be claimed by an employee as of right and it is not a necessary condition or inevitable corollary attached to any service unless a provision is made therefor. While making a scheme for pension, conditions can be prescribed and the prescription of qualifying service for entitlement of pension can be one such essential condition. Insofar as employees of the State Bank of India are concerned, there is no discrimination. It is a uniform rule in SBI that a minimum qualifying service of 20 years is required…
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> That pension is not a fundamental right either traceable to Articles 16 or 21 or the Constitution and that the rule is not discriminatory nor arbitrary nor unreasonable.

7. In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 22.11.2006

sj/ksr

[1] 1995 ILLJ 499 (AP)